

**2475 ABUSE OR NEGLECT OF COMMITTED OR DETAINED YOUTH –  
STAFF MISCONDUCT DEFINED, REPORTING REQUIREMENTS, AND SANCTIONS**

Chapter: **Sununu Youth Services Center**

Section: **Personnel**



New Hampshire Division for Children, Youth and Families Policy Manual

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Approved:

Handwritten signature of Maggie Bishop in black ink.

Maggie Bishop, DCYF Director

Related Statute(s): [RSA 169-C](#), [RSA 621](#), and [RSA 621-A](#)

Related Admin Rule(s):

Related Federal Regulation(s): [P.L. 108-79](#)

[PREA Standards 115.361\(a\)](#), [361\(b\)](#), [361\(c\)](#)

Related Form(s): [FORM 2055](#)

Bridges' Screen(s) and Attachment(s):

The Sununu Youth Services Center (SYSC) is committed to establishing and maintaining an optimal treatment environment for every youth committed or detained. All youth must be treated with dignity, fairness, and respect. Staff are mandated to ensure the health, safety and well-being of all youth and shall not abuse or neglect any committed or detained youth. Staff are mandated to report suspected abuse or neglect of a committed or detained youth as required by statute and this policy and to cooperate with any investigation of a report of suspected abuse or neglect.

**Purpose**

This policy establishes expectations for staff behavior and the definitions of child abuse and neglect as well as the reporting, investigation, and the imposition of sanctions for the abuse or neglect of committed or detained youth by staff.

**Definitions**

**"Abuse or Neglect"** The following two distinct definitions of abuse or neglect are addressed in this policy:

- a. The definitions of abuse and neglect set forth in [RSA 169-C:3](#).
- b. The definitions and "Class" levels of abuse and neglect defined in this policy in Section II below.

**"DCYF"** or the **"Division"** means the DHHS Division for Children, Youth and Families.

**"DHHS"** or the **"Department"** means the New Hampshire Department of Health and Human Services.

**"Medical Coordinator"** means the head of the SYSC Medical Department.

**"PREA"** means the standards enacted on August 20<sup>th</sup>, 2012 and enforced by the U.S. Department of Justice to eliminate prison rape pursuant to the Prison Rape Elimination Act of 2003.

**"SYSC"** or the **"John H. Sununu Youth Services Center"** means the architecturally secure juvenile treatment facility administered by the DHHS Division for Children, Youth and Families.

## Policy

### I. GENERAL PROVISIONS:

- A. Staff are prohibited from abusing or neglecting any youth committed or detained at the SYSC.
- B. All staff ***are mandatory reporters*** and shall report suspected abuse or neglect of a youth, pursuant to Section III below.
- C. All staff shall cooperate with any investigation of a report of suspected abuse or neglect of a youth.
- D. [Policy 2055 "Sexual Assault and Sexual Harassment"](#) is the primary policy related to sexual abuse or sexual harassment at SYSC. Staff should consult Policy 2055 for further information regarding sexual abuse and sexual harassment of youth committed or detained at the SYSC.
  - 1. All staff must immediately complete and deliver Form 2055 "Reporting Form for Sexual Abuse, Sexual Assault, and Sexual Harassment" to the SYSC Supervisor On-Duty.
    - (a) The Supervisor On-Duty addresses any immediate safety concerns and delivers Form 2055 to the SYSC Investigator.
    - (b) The SYSC Investigator brings the incident to the attention of the SYSC Director or designee and the SYSC PREA Coordinator.
  - 2. All staff must immediately report to the SYSC Director or designee and the SYSC PREA Coordinator:
    - (a) Any knowledge, suspicion, or information they receive regarding an incident of sexual abuse or sexual harassment that occurred while a youth was committed or detained, wherever it occurred;
    - (b) Retaliation against youth or staff who reported such an incident; and/or
    - (c) Any staff neglect or violation of responsibilities that may have contributed to a sexual abuse or harassment incident or retaliation (115.361 (a)).
  - 3. Staff are prohibited from revealing any information related to a sexual abuse report to anyone other than:
    - (a) Reporting to designated supervisors, administrators, and state or local services agencies; or
    - (b) To the extent necessary to make treatment, investigation, and other security and management decisions as specified in [Policy 2055](#) (115.361(c)).
- E. Incidents of suspected abuse or neglect shall be investigated and when the evidence supports, criminal, civil, and/or personnel actions may be taken pursuant to applicable laws and regulations.

II. CLASSES OF ABUSE OR NEGLECT: In addition to the definition of abuse and neglect as defined in RSA 169-C:3, the SYSC defines three classes of abuse/neglect for internal investigation and disciplinary purposes:

A. Class Levels of Abuse

1. Class I Abuse is any deliberate act that results or could result in serious physical or psychological injury to a committed or detained youth. Class I Abuse includes, but is not limited to:
  - (a) Sexual assault of a youth by any person;
  - (b) Sexual exploitation by taking advantage of a youth for one's own sexual gratification;
  - (c) Striking a youth with a closed fist; kicking, shoving, biting, spanking or jumping on a youth; or using any type of implement in a way that could cause serious injury except as a means of self-protection or the protection of others when such use is justified according to applicable policy;
  - (d) Encouraging a youth to harm himself/herself or others; and
  - (e) Use of excessive and unwarranted force during an authorized seclusion or restraint in a manner that could cause serious injury to a youth.
2. Class II Abuse is any deliberate act that results or could result in physical or psychological injury to a committed or detained youth. Class II Abuse includes, but is not limited to:
  - (a) Slapping a youth; pushing, tripping, or otherwise deliberately causing a youth to fall;
  - (b) Unauthorized or unwarranted use of restraint or seclusion, room confinement, or isolation;
  - (c) Psychological mistreatment including, but not limited to, intimidation or threats of physical harm; and
  - (d) Confinement or restraint of a youth that is not consistent with SYSC policies on confinement and restraint.
3. Class III Abuse is any act that does not result in obvious physical or psychological injury to a committed or detained youth but is nonetheless detrimental to their well-being. Class III Abuse includes, but is not limited to:
  - (a) Pushing a youth around; slapping a youth on the arm or hand;
  - (b) The use of verbal, written or other communication to demean, ridicule, degrade or curse at a youth, including sexual harassment; and
  - (c) Issuing orders or directions by yelling at a youth in a non-emergency situation.

B. Class Levels of Neglect:

1. Class I Neglect is any act or omission that results or could result in physical or psychology injury or illness to a committed or detained youth and includes, but is not limited to, deprivation of those essential services necessary to maintain the minimal mental, emotional, and physical health and safety as described below:
  - (a) Failure to provide adequate supervision of a youth that results in abuse or injury;
  - (b) Failure to provide and maintain proper and sufficient food, including safe dietary practices after instruction by professional or supervisory staff;
  - (c) Failure to provide and maintain proper clothing, hygiene and health care including both routine treatments and those specified in the youth's treatment plan; and
  - (d) Failure to provide for the personal safety of youth including failure to intervene or call for assistance when a youth is in danger of serious injury and failure to report serious injury or illness to appropriate supervisory or medical staff.
  
2. Class II Neglect is any act or omission which results or could result in non-serious physical or psychological injury or illness to a committed or detained youth and includes, but is not limited to:
  - (a) Failure to provide adequate supervision to a youth that results in abuse or injury;
  - (b) Failure to provide and maintain proper and sufficient food, clothing, hygiene and health care including both routine treatments and those specified in a youth's treatment plan;
  - (c) Failure to provide and maintain a safe and humane environment including failure to keep living areas free from hazardous materials and failure to adhere to fire, safety and smoking regulations;
  - (d) Failure to implement, maintain, and comply with behavior management program and provide those services specified in a youth's treatment plan;
  - (e) Failure to provide for the personal safety of youth, including failure to report any non-serious injury or illness that may require medical attention; and
  - (f) Failure to account for youth at change of shift or other designated times.
  
3. Class III Neglect is any act or omission which although it does not result in physical or psychological injury or illness denies committed or detained youth attention to their needs or rights and includes, but is not limited to:
  - (a) Failure to carry out routine programs including daily living activities, the behavior management program, and services specified in the youth's treatment plan; and

- (b) Failure to provide clean laundry promptly as the need arises.

III. STAFF RESPONSIBILITY TO REPORT SUSPECTED ABUSE OR NEGLECT:

A. Staff Responsibility to Report Suspected Abuse or Neglect under RSA 169-C:

1. If staff has reason to believe a committed or detained youth has been abused or neglected as these terms are defined in RSA 169-C:3, the staff is required to report the suspected abuse or neglect to the Division for Children, Youth and Families – Central Intake at 1-800-894-5533 or 603-271-6556, in accordance with the requirements set forth by [RSA 169-C:29](#) and this policy (115.361 (b));
2. The responsibility to report under RSA 169-C is an individual statutory responsibility and is not fulfilled by reporting the suspected abuse or neglect to an SYSC supervisor or administrator.
3. It is permissible for staff who is aware of conduct that he/she is concerned may fall within the RSA 169-C:3 definitions of abuse or neglect, to discuss the conduct with an SYSC supervisor or administrator, who is not suspected in the alleged abuse or neglect, prior to making the individual decision as to whether to report the incident.
4. Unless otherwise provided by statute or policy of the entity receiving the RSA 169-C report, the staff member may make the report anonymously.
5. Complete a CourtStream Incident Report describing the suspected abuse or neglect.
  - (a) Identify if the suspected abuse or neglect has been reported to DCYF,
  - (b) If the staff completing the Incident Report has made an anonymous report of suspected abuse or neglect pursuant to the requirements of RSA 169-C, the staff does not have to indicate who made an RSA 169-C report on the Incident Report.
  - (c) If the individual suspected to have perpetrated abuse or neglect is a staff member, do not include identifying information about the staff in the CourtStream report.
    - (1) Document the information regarding the staff in a separate word document to provide to the Supervisor On-Duty.
    - (2) The Supervisor On-Duty will contact the Administrator and deliver the word document to the SYSC Investigator.
6. Pursuant to [RSA 169-C:31](#), anyone making a mandatory report in good faith is immune from civil or criminal liability that might be incurred or imposed.

B. Staff Responsibility to Report and Respond to Suspected Classes of Abuse or Neglect Defined In This Policy and RSA 169-C:

1. This policy establishes the obligation on all staff to act to ensure the safety of committed or detained youth affected by abuse or neglect as defined in this policy and RSA 169-C.

2. All staff are responsible to report **suspected** abuse and/or neglect according to the provisions of RSA 169-C and this policy;
3. Staff receiving any allegation of sexual abuse or sexual harassment, as defined in Policy 2055, shall ensure reporting under Policy 2055 "Sexual Abuse and Sexual Harassment" is made. Refer to [Policy 2055](#) for additional information.
4. If staff has a reason to believe that a committed or detained youth has been abused or neglected as these terms are defined in this policy, he/she shall:
  - (a) Ensure the safety of the youth.
  - (b) Immediately report the suspected abuse or neglect to his/her supervisor provided that the supervisor is not alleged to be involved in the abuse or neglect. If the supervisor is alleged to be involved, the staff shall make the report to the Bureau Chief of Clinical and Residential Services or designee such as the Supervisor On-Duty.
  - (c) If the suspected abuse or neglect falls within the definition of these terms set forth in RSA 169-C, report the suspected abuse or neglect as required by Section III:A immediately above.
  - (d) Complete a CourtStream Incident Report describing the suspected abuse or neglect.
    - (1) Identify if the suspected abuse or neglect has been reported to DCYF,
    - (2) If the staff completing the Incident Report has made an anonymous report of suspected abuse or neglect pursuant to the requirements of RSA 169-C, the staff does not have to indicate who made an RSA 169-C report on the Incident Report.
    - (3) If the individual suspected to have perpetrated abuse or neglect is a staff member, do not include identifying information about the staff in the CourtStream report.
      - (i) Document the information regarding the staff in a separate word document to provide to the Supervisor On-Duty.
      - (ii) The Supervisor On-Duty will contact the Administrator and deliver the word document to the SYSC Investigator.
  - (e) Upon receiving a verbal or written report of suspected abuse or neglect, the Supervisor On-Duty to whom the report was made shall:
    - (1) Continue to ensure the safety of the youth;
    - (2) If the allegation involves physical or sexual abuse or neglect, ensure the youth is escorted to the SYSC Medical Department for medical assessment; and

- (3) Inform the Bureau Chief of Clinical and Residential Services or designee of the suspected abuse or neglect.
  - (i) In addition to the report described immediately above, the PREA Coordinator must also be informed of allegations that include sexual assault, sexual harassment and/or sexual misconduct.
- (f) The SYSC Medical Department shall:
  - (1) Initiate any necessary assessment and medical care including have a child alleged to have been sexually abused seen at the Emergency Room or by a medical professional trained in sexual abuse/assault (SANE) when medically necessary; and
  - (2) Document the incident, nursing assessment, and plan of action in the youth's nursing progress notes.
- (g) The Bureau Chief of Clinical and Residential Services or designee shall:
  - (1) Determine whether a report of suspected abuse or neglect shall be made pursuant to RSA 169-C.
  - (2) Determine what administrative steps shall be taken to ensure the safety of the youth, the rights of staff allegedly involved in the incident and the integrity of any investigation(s) related to the incident;
  - (3) Determine whether a report of the suspected abuse or neglect shall be filed with the local law enforcement agency or NH State Police (depending on the nature of the incident and the response time by the local law enforcement agency); and
  - (4) Notify the SYSC Director of the report and actions taken to address the suspected abuse or neglect.

IV. INVESTIGATION OF REPORTS OF SUSPECTED ABUSE OR NEGLECT OF COMMITTED OR DETAINED YOUTH:

- A. In addition to the following provisions, investigations of allegations that include sexual abuse, sexual harassment or sexual misconduct, shall be conducted according to the provisions of [Policy 2055 "Sexual Assault and Sexual Harassment."](#)
- B. Investigation of Reports Made Pursuant to RSA 169-C.
  - 1. The entity that receives a report of suspected abuse or neglect of a youth pursuant to RSA 169-C shall promptly provide notice to the SYSC Director or designee. When allegations regard abuse or neglect by staff, volunteers, or contractors, the SYSC Director or designee shall provide notice to the DCYF Director or designee and the Director of Human Resources (Department of Health and Human Services) of the report and the initiation of an investigation.
  - 2. Pursuant to RSA 169-C, the Department of Justice – Attorney General's Office is responsible for the investigation of reports of suspected abuse or neglect of youth committed or detained at the SYSC reported under RSA 169-C. To discharge this

responsibility, the Department of Justice- Attorney General's Office may utilize the investigative resources of other entities, including but not limited to the Special Investigations staff at the Division for Children, Youth and Families, similar units within the Department of Health and Human Services, and local, county, and state law enforcement entities.

3. The Department of Justice and DCYF has established protocols to be followed in the investigations of reports made pursuant to RSA 169-C. The "ATTORNEY GENERAL'S TASK FORCE ON CHILD ABUSE AND NEGLECT" may be found [here](#).
- C. Investigation of Reports of Suspected Classes of Abuse or Neglect as Defined in This Policy But That Do Not Result in a Report Pursuant to RSA 169-C.
1. Not all conduct that may violate this policy will require a report under RSA 169-C; however, any report of conduct that allegedly violates this policy shall be promptly investigated by the SYSC Internal Investigator as assigned by the SYSC Director or designee to ensure the safety and well-being of youth.
    - (a) The SYSC Director or designee shall determine the scope and parameters of this administrative investigation.
  2. In cases in which an RSA 169-C investigation has begun and the SYSC has commenced its own administrative investigation of the alleged abuse or neglect, SYSC and the Department of Justice- Attorney General's Office (and any investigatory entities operating under its direction) shall utilize their best efforts to coordinate the two investigations to ensure:
    - (a) The safety and well-being of the youth(s) alleged to have been abused or neglected;
    - (b) The rights of any staff involved with the alleged misconduct;
    - (c) The safety, security, and efficient functioning of the SYSC; and
    - (d) The efficient conduct of the investigation.
  3. General Procedures Governing Investigations:
    - (a) In a manner consistent with any relevant provisions of the Collective Bargaining Agreement, state and federal law and the Constitutions of the State of New Hampshire and the United States, staff shall cooperate fully with any investigation of suspected abuse or neglect of a committed or detained youth regardless of the entity responsible for the conduct of the investigation;
    - (b) Any individual conducting an investigation shall contact the Supervisor On-Duty to schedule interviews with staff or youth;
    - (c) Any individual entering the SYSC campus to participate in an investigation shall notify the Supervisor On-Duty in advance of his/her arrival and shall check in with reception immediately upon arrival; and

- (d) The SYSC Director or designee may, in a manner consistent with the relevant personnel rules of the Division of Personnel, take whatever action is necessary to protect the youth and the staff alleged to have committed the abuse or neglect pending the outcome of the investigation.

V. DISCIPLINARY ACTION:

- A. Regardless of the outcome of any investigation conducted by the Department of Justice-Attorney General's Office (and any investigatory entities operating under its directions) pursuant to RSA 169-C, the SYSC Director or designee shall take appropriate disciplinary action against staff determined by it to have abused or neglected a committed or detained youth in violation of this policy.
- B. Disciplinary action for violation of this policy may include, but is not limited to:
  - 1. Class I Abuse or Class I Neglect: Termination;
  - 2. Class II Abuse or Class II Neglect: Mandatory letter of warning; possible suspension and/or termination;
  - 3. Class III Abuse: Mandatory letter of warning; possible suspension;
  - 4. Class III Neglect: If first offense, documented verbal warning; otherwise mandatory letter of warning; and
  - 5. A probationary employee may be terminated for any violation of this policy. Other staff may be terminated for any subsequent offense of Class II Abuse, Class II Neglect, and/or Class III Abuse.